

In the Matter Of:

NEW ENGLAND COMPOUNDING PHARMACY, INC. PRODUCTS LIABILITY LITIGATION

VIDEOTAPED DEPOSITION OF DEBRA SCHAMBERG, R.N.

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1 compensation?

2 A. The same bonus as all other employees
3 receive.

4 Q. And what is your understanding of what
5 factors determine the size of the bonus?

6 A. That is determined by the physicians.

7 Q. The fact that St. Thomas Neurosurgical had
8 a written formulary, is that a -- is that a Joint
9 Commission requirement?

10 A. Yes.

11 Q. Do you know why the Joint Commission
12 requires a formulary?

13 A. That -- why do they require anything that
14 they say?

15 Q. And who is in charge of making sure that
16 St. Thomas Neurosurgical met Joint Commission
17 requirements?

18 A. That's my responsibility.

19 Q. Did you ever talk with a pharmacist before
20 sending the lists of names to NECC?

21 MR. GIDEON: I can tell you now that
22 as I instructed her earlier, any discussion
23 you had as part of a quality improvement
24 committee is privileged under Tennessee
25 law. You're instructed not to share any of

1 that information if in answering the
2 question you would do so.

3 Q. (By Mr. Nolan) And so in light of that
4 objection, will you answer the question?

5 A. No.

6 Q. When was the first time that you
7 participated in a Joint Commission survey?

8 A. Since I have been in a hospital there's
9 been Joint Commission.

10 Q. Well, since -- let me limit the question.
11 Since you've been working at St. Thomas Neurosurgical.

12 A. There again, since -- I think we had our
13 first one in 2001 or so. It's...

14 Q. And so how many Joint Commission surveys
15 have you participated in?

16 A. In 2009 was the first one I led.

17 Q. Okay. And then when was the next one?

18 A. 2012.

19 Q. And do you know specifically what the Joint
20 Commission requirements are for a written formulary?

21 A. Not off the top of my head.

22 Q. And do you keep a copy of the rules and
23 requirements of the Joint Commission for formularies?

24 A. I have a Joint Commission standard book
25 with their requirement. I do have a copy of that.

1 but I don't remember the content of it.

2 Q. Do you remember having those conversations
3 with Dr. Culclasure in 2010, let's say, six months
4 before you started doing business with NECC?

5 A. I don't recall.

6 Q. Do you recall for how long prior to doing
7 business with NECC that Dr. Culclasure had expressed
8 to you concerns about using a steroid with
9 preservative in it for ESIs?

10 A. No.

11 Q. Now, Mr. Volan asked you -- asked you
12 questions today about everybody that you talked to in
13 connection with making the decision to buy drugs from
14 NECC. Do you remember that?

15 A. Yes.

16 Q. And you never mentioned in those -- you
17 never mentioned in response to those questions that
18 you had any communications with your pharmacy
19 consultant, Mr. O'Neil, about the decision to buy
20 drugs from NECC; correct?

21 A. I did not respond to that.

22 Q. Right. You didn't talk to Mr. O'Neil about
23 the decision to buy drugs from NECC, did you?

24 MR. GIDEON: If it -- if -- if you
25 had any discussions with Mr. O'Neil in

1 connection with a quality improvement
2 committee, then that is privileged in
3 Tennessee.

4 THE WITNESS: Okay.

5 MR. GIDEON: And you can't answer it.
6 If it wasn't in connection with quality
7 improvement, then you can; okay?

8 THE WITNESS: Okay.

9 Q. (By Mr. Rehnquist) Did you have any
10 conversations with Mr. O'Neil about the decision to
11 buy drugs from NECC?

12 A. It's -- that's quality.

13 Q. So is the -- is the answer that you did
14 have communications with him?

15 MR. GIDEON: She's not going to
16 answer the question.

17 THE WITNESS: The answer is I'm not
18 going to answer.

19 MR. REHNQUIST: She's not going to
20 tell me whether or not she had
21 communications with Mr. O'Neil on the
22 subject?

23 MR. GIDEON: Right.

24 Q. (By Mr. Rehnquist) And you're not going to
25 tell me whether or not you had communications with

1 Mr. O'Neil on the subject of NEC's patient name
2 request; correct?

3 MR. GIDEON: Same.

4 Q. (By Mr. Rehnquist) You're not going to
5 tell me whether or not?

6 A. No, sir.

7 Q. And that's on the basis of this privilege
8 that your lawyer has advised you about?

9 A. That is correct.

10 Q. Now, you don't have a pharmacist in-house
11 do you --

12 A. No, sir.

13 Q. -- at STOPNC?

14 And you're not a pharmacist?

15 A. No, I'm not.

16 Q. And that's why you have a pharmacy
17 consultant; correct?

18 A. That is correct.

19 Q. Mr. O'Neil is STOPNC's source of pharmacy
20 expertise; correct?

21 A. Yes.

22 Q. And you filed an affidavit in court under
23 oath about that relationship with Mr. O'Neil, didn't
24 you?

25 A. I don't remember. I --